

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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United States of America,

Case No. 22-cr-00234 (KMM-TNL)

Plaintiff,

**ORDER**

vs.

Justice Anthony Valentino,

Defendant.

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On March 25, 2024, Justice Valentino requested that the Court give him free access to transcripts from his docket because he is indigent. He states that he is preparing a petition pursuant to 28 U.S.C. § 2255. The Court does not question Mr. Valentino's indigency. However, the Court denies that request at this stage of the case.

The law permits the Court to provide free transcripts to defendants who have sought relief pursuant to § 2255 if the Court determines that the petition is not frivolous and the transcripts are necessary for consideration of the matter. 28 U.S.C. § 753(f). However, that provision does not generally allow a defendant to secure free access to transcripts while they are simply preparing their petition. *United States v. Lewis*, 605 F.2d 379, 379 (8th Cir. 1979); *United States v. Losing, Jr.*, 601 F.2d 351, 353 (8th Cir. 1979) (“[Petitioner] has no absolute right to a transcript to assist him in the preparation of a collateral attack on his conviction. . . .”). Here, Mr. Valentino's case is relatively straightforward with a guilty plea and a sentencing proceeding that followed the expected paths. There is nothing about this case that would give rise to the extraordinary circumstance where a Court would make an

exception to the general rule that transcripts can only be ordered after the filing of the petition, and only when necessary. Indeed, the Eighth Circuit has held that “any request for a free transcript prior to the filing of a section 2255 complaint is premature.” *Chapman v. United States*, 55 F.3d 390, 390 (8th Cir. 1995) (per curiam); *see also United States v. Barnett*, 389 F. App’x 575, 575 (8th Cir. 2010) (per curiam) (“[W]e find no basis for reversal because it is undisputed that [Petitioner] had not filed a section 2255 motion at the time he requested the exhibit.”).

For these reasons, Justice Valentino’s Motion for Transcripts is denied without prejudice to being renewed at a later date. However, the Clerk of Court is directed to include with this Order a copy of Mr. Valentino’s full docket so that he can review it.

Date: April 22, 2024

s/Katherine Menendez

Katherine Menendez  
United States District Court